IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 1087 of 2000()

CC.352/1993 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PERINTHALMANNA.
CRA.148/1994 of SESSIONS COURT, MANJERI
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

ELIKKOTTIL ABOOBACKER,
S/O. ABU HAJI, MANKADA AMSOM,
KADANNAMMANNA DESOM.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENTS/ COMPLAINANT
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1. **SUB INSPECTOR OF POLICE,**
   PERINTHALMANNA POLICE STATION,
   PERINTHALMANNA.

2. **STATE OF KERALA, REP.BY**
   THE PUBLIC PROSECUTOR, HIGH
   COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08 /2007 ,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.1087/2000

ORDER ON CRL.MP. NO.5881/2000 IN CRL.RP. NO.1087/2000

DISMISSED

03.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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K.R.UDAYABHANU, J

Crl.R.P.No.1087 of 2000

Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner is the accused in C.C.No.352/93 in the file of the Judicial First Class Magistrate Court (No.1), Perintalmanna with respect to the offences under Sections 279, 337 and 338 IPC and stands convicted and sentenced to undergo simple imprisonment for two months and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for one month for the offence under Section 279 IPC ; to undergo simple imprisonment for one month and to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for 20 days for the offence under Section 337 IPC and to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for one month for the offence under Section 338 IPC.

2. The prosecution case is that on 14.2.1993 at about 8.30 a.m., the accused drove KRM 4156 stage carriage bus with passengers in a rash and negligent manner through Perintalmanna-Cherppulasseri public road so as to endanger

human life and hit against KLP 7106 bus driven by CW1/PW2. The same resulted in sustaining injuries to a number of passengers and grievous injuries to some of them.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 14 and Exts. P1 to P10. The defence examined DWs' 1 and 2.

4. I find that it stands established from Ext. P4 scene mahazar that the incident has taken place totally on the wrong side that the bus driven by the accused. The version is that he was driving the bus towards the southern side. The road is having a width of 7.5 mtrs. and the accident took place is 1.5 mtrs. towards the east from the western tar end of the road. Evidently, the above fact would show that the bus was driven by the accused totally on the wrong side. The witnesses who were the passengers in the buses have testified with respect to the fact that the accused has driven the bus in a rash and negligent manner. CWs' 20 and 21 whose wound certificates has been marked as Exts. P2 and P3 series show that CW20 has sustained compound fracture of the upper part of the right ulna and CW21 lost two teeth. The AMVI report i.e., Exts. P9 and P10 and the testimony of PW13 do establish the fact that the vehicle had no

mechanical defect. The identity stands proved from Ext. P7 trip sheet and from the the version of the witnesses.

5. In the circumstances, I find that the findings of the court below convicting the accused for the above said offences are only to be confirmed. So far as the sentence is concerned, counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place on 14.2.1993 and that about 15 years have elapsed since the commencement of the proceedings. In the circumstances, I find that the imprisonment has to be avoided. The sentence imposed for the offence under Section 338 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to CW20 and Rs.5,000/- to CW21 and in default, to undergo simple imprisonment for three months. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted two months' time to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-I, Perinthalmanna on 8.10.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.A.No.350/2001

JUDGMENT

25th July 2007